

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARTIN LEE FOSTER,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 1:22-cv-01187-ADA-EPG

ORDER TRANSFERRING CASE TO THE
SACRAMENTO DIVISION OF THE
EASTERN DISTRICT OF CALIFORNIA

(ECF No. 1)

Plaintiff Martin Lee Foster, an inmate at the Sacramento County Jail, filed this action on September 13, 2022,¹ and has not yet paid the case filing fee nor applied to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. As it appears that this action should have been filed in the Sacramento Division of the United States District Court for the Eastern District of California, the Court will transfer the case to the Sacramento Division.

Pursuant to Local Rule 120(d), “[a]ll civil and criminal actions and proceedings of every nature and kind cognizable in the United States District Court for the Eastern District of California arising in ... Sacramento [County] ... shall be commenced in the United States District Court sitting [in] Sacramento, California”

¹ Without deciding the issue, this order utilizes the prison mailbox rule announced in *Houston v. Lack*, 487 U.S. 266, 270-71 (1988) for the date that Plaintiff filed his complaint.

In the complaint, Plaintiff states that he entered an “establishment located on the corner of J Street in Downtown, Sacramento.”² (ECF No. 1, p. 1). He asserts that Governor Gavin Newsom operates this establishment “for the benefit of pedophiles” and poses a danger to children. Plaintiff lists additional Defendants—Ann Marie Schubert (identified as a district attorney) and Kevin McCarthy (identified as a member of the “legislature”—in his complaint and appears to indicate that they have failed to investigate the establishment.

Given that the events in the complaint are alleged to have arisen in Sacramento County, the complaint should have been filed in the Sacramento Division. In fact, Plaintiff filed a nearly identical complaint in the Sacramento Division, which was dismissed for failure to state a claim on January 11, 2022. *See Foster v. Newsom*, 2:21-cv-00316-TLN-DMC (ECF No. 32).

Pursuant to Local Rule 120(f), a civil action which has not been commenced in the proper court may, on the Court's own motion, be transferred to the proper Court. Therefore, this action will be transferred to the Sacramento Division. Given the transfer, the Court will not address Plaintiff's failure to pay the filing fee.

Good cause appearing, IT IS HEREBY ORDERED that:

1. This action is transferred to the United States District Court for the Eastern District of California sitting in Sacramento; and
2. All future filings shall refer to the new Sacramento case number assigned and shall be filed at:

United States District Court
Eastern District of California
501 "I" Street, Suite 4-200
Sacramento, CA 95814

IT IS SO ORDERED.

Dated: **September 21, 2022**

1s/ Eric P. Gross
UNITED STATES MAGISTRATE JUDGE

² For readability, minor alterations, like adding punctuation and omitting capitalization, have been made to quoted portions of Plaintiff's complaint without indicating each change.